

Senate Engrossed

FILED

MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

CHAPTER 77
SENATE BILL 1060

AN ACT

AMENDING SECTIONS 33-1242 AND 33-1803, ARIZONA REVISED STATUTES; RELATING
TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1242, Arizona Revised Statutes, is amended to
3 read:

4 33-1242. Powers of unit owners' association; notice to unit
5 owner of violation

6 A. Subject to the provisions of the declaration, the association
7 may:

- 8 1. Adopt and amend bylaws and rules.
- 9 2. Adopt and amend budgets for revenues, expenditures and reserves
10 and collect assessments for common expenses from unit owners.
- 11 3. Hire and discharge managing agents and other employees, agents
12 and independent contractors.
- 13 4. Institute, defend or intervene in litigation or administrative
14 proceedings in its own name on behalf of itself or two or more unit owners
15 on matters affecting the condominium.
- 16 5. Make contracts and incur liabilities.
- 17 6. Regulate the use, maintenance, repair, replacement and
18 modification of common elements.
- 19 7. Cause additional improvements to be made as a part of the common
20 elements.
- 21 8. Acquire, hold, encumber and convey in its own name any right,
22 title or interest to real or personal property, except that common
23 elements may be conveyed or subjected to a security interest only pursuant
24 to section 33-1252.
- 25 9. Grant easements, leases, licenses and concessions through or
26 over the common elements.
- 27 10. Impose and receive any payments, fees or charges for the use,
28 rental or operation of the common elements other than limited common
29 elements described in section 33-1212, paragraphs 2 and 4 and for services
30 provided to unit owners.
- 31 11. Impose charges for late payment of assessments after the
32 association has provided notice that the assessment is overdue or provided
33 notice that the assessment is considered overdue after a certain date and,
34 after notice and an opportunity to be heard, impose reasonable monetary
35 penalties on unit owners for violations of the declaration, bylaws and
36 rules of the association.
- 37 12. Impose reasonable charges for the preparation and recordation
38 of amendments to the declaration or statements of unpaid assessments.
- 39 13. Provide for the indemnification of its officers and executive
40 board of directors and maintain directors' and officers' liability
41 insurance.
- 42 14. Assign its right to future income, including the right to
43 receive common expense assessments, but only to the extent the declaration
44 expressly provides.

1 15. Be a member of a master association or other entity owning,
2 maintaining or governing in any respect any portion of the common elements
3 or other property benefitting or related to the condominium or the unit
4 owners in any respect.

5 16. Exercise any other powers conferred by the declaration or
6 bylaws.

7 17. Exercise all other powers that may be exercised in this state
8 by legal entities of the same type as the association.

9 18. Exercise any other powers necessary and proper for the
10 governance and operation of the association.

11 B. A unit owner who receives a written notice that the condition of
12 the property owned by the unit owner is in violation of a requirement of
13 the condominium documents without regard to whether a monetary penalty is
14 imposed by the notice may provide the association with a written response
15 by sending the response by certified mail within twenty-one calendar days
16 after the date of the notice. The response shall be sent to the address
17 identified in the notice.

18 C. Within ten business days after receipt of the certified mail
19 containing the response from the unit owner, the association shall respond
20 to the unit owner with a written explanation regarding the notice that
21 shall provide at least the following information unless previously
22 provided in the notice of violation:

23 1. The provision of the condominium documents that has allegedly
24 been violated.

25 2. The date of the violation or the date the violation was
26 observed.

27 3. The first and last name of the person or persons who observed
28 the violation.

29 4. The process the unit owner must follow to contest the notice.

30 D. Unless the information required in subsection C, paragraph 4 of
31 this section is provided in the notice of violation, the association shall
32 not proceed with any action to enforce the condominium documents,
33 including the collection of attorney fees, before or during the time
34 prescribed by subsection C of this section regarding the exchange of
35 information between the association and the unit owner and shall give the
36 unit owner written notice of the unit owner's option to petition for an
37 administrative hearing on the matter in the STATE REAL ESTATE department
38 ~~of fire, building and life safety pursuant to section 41-2198.01~~
39 32-2199.01. At any time before or after completion of the exchange of
40 information pursuant to this section, the unit owner may petition for a
41 hearing pursuant to section 32-2199.01 if the dispute is within the
42 jurisdiction of the state real estate department as prescribed in section
43 32-2199.01.

1 Sec. 2. Section 33-1803, Arizona Revised Statutes, is amended to
2 read:

3 33-1803. Assessment limitation; penalties; notice to member
4 of violation

5 A. Unless limitations in the community documents would result in a
6 lower limit for the assessment, the association shall not impose a regular
7 assessment that is more than twenty percent greater than the immediately
8 preceding fiscal year's assessment without the approval of the majority of
9 the members of the association. Unless reserved to the members of the
10 association, the board of directors may impose reasonable charges for the
11 late payment of assessments. A payment by a member is deemed late if it
12 is unpaid fifteen or more days after its due date, unless the community
13 documents provide for a longer period. Charges for the late payment of
14 assessments are limited to the greater of fifteen dollars or ten percent
15 of the amount of the unpaid assessment and may be imposed only after the
16 association has provided notice that the assessment is overdue or provided
17 notice that the assessment is considered overdue after a certain date.
18 Any monies paid by the member for an unpaid assessment shall be applied
19 first to the principal amount unpaid and then to the interest accrued.

20 B. After notice and an opportunity to be heard, the board of
21 directors may impose reasonable monetary penalties on members for
22 violations of the declaration, bylaws and rules of the
23 association. Notwithstanding any provision in the community documents,
24 the board of directors shall not impose a charge for a late payment of a
25 penalty that exceeds the greater of fifteen dollars or ten percent of the
26 amount of the unpaid penalty. A payment is deemed late if it is unpaid
27 fifteen or more days after its due date, unless the declaration, bylaws or
28 rules of the association provide for a longer period. Any monies paid by
29 a member for an unpaid penalty shall be applied first to the principal
30 amount unpaid and then to the interest accrued. Notice pursuant to this
31 subsection shall include information pertaining to the manner in which the
32 penalty shall be enforced.

33 C. A member who receives a written notice that the condition of the
34 property owned by the member is in violation of the community documents
35 without regard to whether a monetary penalty is imposed by the notice may
36 provide the association with a written response by sending the response by
37 certified mail within twenty-one calendar days after the date of the
38 notice. The response shall be sent to the address identified in the
39 notice.

40 D. Within ten business days after receipt of the certified mail
41 containing the response from the member, the association shall respond to
42 the member with a written explanation regarding the notice that shall
43 provide at least the following information unless previously provided in
44 the notice of violation:

1 1. The provision of the community documents that has allegedly been
2 violated.

3 2. The date of the violation or the date the violation was
4 observed.

5 3. The first and last name of the person or persons who observed
6 the violation.

7 4. The process the member must follow to contest the notice.

8 E. Unless the information required in subsection D, paragraph 4 of
9 this section is provided in the notice of violation, the association shall
10 not proceed with any action to enforce the community documents, including
11 the collection of attorney fees, before or during the time prescribed by
12 subsection D of this section regarding the exchange of information between
13 the association and the member and shall give the member written notice of
14 the member's option to petition for an administrative hearing on the
15 matter in the STATE REAL ESTATE department ~~of fire, building and life~~
16 ~~safety~~ pursuant to section ~~41-2198.01~~ 32-2199.01. At any time before or
17 after completion of the exchange of information pursuant to this section,
18 the member may petition for a hearing pursuant to section 32-2199.01 if
19 the dispute is within the jurisdiction of the state real estate department
20 as prescribed in section 32-2199.01.

APPROVED BY THE GOVERNOR MARCH 27, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 27, 2017.

Passed the House March 20, 20 17,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Th. R. [Signature]
Speaker of the House
Pro Tempore
Jim Drake
Chief Clerk of the House

Passed the Senate January 26, 20 17,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]
President of the Senate
[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

21st day of March, 20 17,

at 1:50 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 27th day of

March, 20 17,

at 10:01 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 27 day of March, 20 17,

at 11:44 o'clock A M.

[Signature]
Secretary of State

S.B. 1060